

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3 \* \* \*

4 DAVID MUSTARD, *et al.*,

5 Plaintiff,

6 v.

7 COMSTOCK MINING, INC., *et al.*,

8 Defendants.

Case No. 3:21-CV-0378-LRH-CLB

**ORDER TO FILE CASE  
MANAGEMENT REPORT**

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10 Pursuant to Federal Rule of Civil Procedure 16, United States Magistrate Judge  
11 Carla Baldwin concludes that a Rule 16 Case Management Report will assist the parties,  
12 counsel, and the court in managing and overseeing discovery in this matter. Upon receipt  
13 of joint report, the court will determine whether a case management conference should  
14 be set to assist in managing discovery.

15 Therefore, IT IS HEREBY ORDERED that:

16 **A. Meet and Confer**

17 The parties shall meet and confer on items required to be included in the Joint  
18 Case Management Report.

19 **B. Joint Case Management Report**

20 After the meet and confer, the parties shall file a Joint Case Management Report  
21 by no later than **March 7, 2022**. The Case Management Report shall not exceed fifteen  
22 (15) pages and shall not include any attached exhibits.

23 However, if any party fails to participate in preparing the Joint Case Management  
24 Report, the non-offending party shall detail the party's effort to get the offending party to  
25 participate in drafting the report. The non-offending party shall still file the report. The  
26 offending party may be subject to sanctions, including monetary sanctions to compensate  
27 the non-offending party's time and effort incurred in seeking compliance with this order.  
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1           **C. Contents of Joint Case Management Report**

2           The Joint Case Management Report shall include the following information in  
3 separately numbered paragraphs as designated below:

4           1.     A short statement of the nature of the case (three pages or less), including  
5 a description of each claim and defense;

6           2.     The jurisdictional bases for the case, citing specific jurisdictional statutes. If  
7 jurisdiction is based on diversity, the citizenship of each party shall be identified and the  
8 amount in controversy must be stated;

9           3.     Whether any party expects to add additional parties to the case or otherwise  
10 amend the pleadings;

11          4.     Whether there are any pending motions, including a brief description of  
12 those motions;

13          5.     Whether this case is related to any other case pending before this court or  
14 any other court, including a bankruptcy court, and if so, provide a brief description of the  
15 status of those case(s);

16          6.     A complete and detailed statement related to discovery, which addresses  
17 the following issues:

18               a)     The date the Rule 26(f) initial disclosures were provided, or will be  
19 provided, by each party;

20               b)     A brief statement regarding, what discovery requests have been served  
21 by any party, who the requests were served upon, and the due dates for responses to  
22 those requests;

23               c)     Whether the parties anticipate the need for a protective order relating to  
24 the discovery of information relating to a trade secret or other confidential research,  
25 development, or commercial information;

26               d)     Any issues or proposals relating to the timing, sequencing, phasing or  
27 scheduling of discovery;

28               e)     Whether the parties anticipate the need to take discovery outside of the

1 District of Nevada or the United States and, if so, a description of the proposed discovery;  
2 and,

3 f) A summary of the number of depositions each party anticipates taking,  
4 information related to the anticipated location of those depositions, and whether any party  
5 anticipates video and/or sound recording of depositions.

6 7. A brief statement regarding the types of ESI expected in the case, where  
7 the ESI is located, a statement of any agreements reached by the parties related to ESI  
8 on the issues listed above, and any outstanding disagreements between the parties  
9 related **to ESI**.

10 8. In the event the Court has not already approved a discovery plan and  
11 scheduling order, the parties shall include proposed firm dates for each of the following  
12 pursuant to Local Rule 26-1:

- 13 a) A deadline for the completion of discovery;
- 14 b) A deadline for amending the pleadings and adding parties;
- 15 c) Dates for complete disclosure of expert testimony;
- 16 d) A deadline for the filing of dispositive; and,
- 17 e) A date by which the parties will file the joint pretrial order.

18 The parties shall state whether the dates proposed in this paragraph are within the  
19 deadlines specified in LR 26-1(e). If so, then the parties' report shall state, "THE  
20 DEADLINES SUBMITTED HEREIN ARE IN COMPLIANCE WITH LR 26-1(b)." If longer  
21 deadlines are sought, the parties' report shall state "SPECIAL SCHEDULING REVIEW  
22 REQUESTED." If the parties request special scheduling review of the LR 26-1(b)  
23 deadlines, the parties shall include a statement of the reasons why longer or different time  
24 periods should apply to the case. If the parties disagree as to the LR 26-1(b) deadlines,  
25 a statement of each party's position on each point of dispute should be provided.

26 9. Whether a jury trial has been requested, whether the request for a jury trial  
27 is contested (if the request is contested, set forth reasons), and an estimated length for  
28 trial.

1           10. A statement as to the possibility of settlement and when the parties desire  
2 a court sponsored settlement conference, i.e., before further discovery, after discovery,  
3 after dispositive motions, etc.

4           11. Whether the parties intend to proceed before the magistrate judge.  
5 Presently, when a civil trial is set before the district judges, any criminal trial set that  
6 conflicts with the civil trial will take priority, even if the civil trial was set first. Continuances  
7 of civil trials under these circumstances may no longer be entertained, absent good  
8 cause, but the civil trial may instead trail from day to day or week to week until the  
9 completion of either the criminal case or the older civil case. The parties are advised that  
10 they are free to withhold consent or decline magistrate jurisdiction without adverse  
11 substantive consequences.<sup>1</sup>

12           12. Whether either party requests bifurcation or phasing of trial or has any other  
13 suggestion for shortening or expediting discovery, pre-trial motions or trial.

14           13. Whether either party requests that a case management conference be set  
15 in the case.

16           The parties are reminded that the filing of a dispositive motion does not stay a case  
17 in federal court, nor does it excuse the parties with proceeding with their discovery  
18 obligations as required by the Local Rules and the Federal Rules of Civil Procedure.  
19 Failure to follow the Local Rules and comply with discovery obligations without first  
20 obtaining an order from the court either delaying discovery requirements, staying  
21 discovery or staying the entire case may result in sanctions.

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26           <sup>1</sup>A form to be used for consent to proceed before the Magistrate Judge may be  
27 found on the Court's website, [www.nvd.uscourts.gov/Forms.aspx](http://www.nvd.uscourts.gov/Forms.aspx) (AO 85, Notice of  
28 Availability of a U.S. Magistrate Judge). Consent forms should NOT be electronically  
filed. Upon consent of the parties, the form shall be sent directly to clerk's office for  
processing.

**DATED:** January 31, 2022.

  
UNITED STATES MAGISTRATE JUDGE